

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEBORA & TRACY SORENSON,

Plaintiffs,

v.

JEFFREY YONEK and CREDIT
INTERNATIONAL CORPORATION,

Defendants.

No. CV10-5408RBL

ORDER GRANTING DEFENDANT
CREDIT INTERNATIONAL
CORPORATION'S MOTION FOR
SUMMARY JUDGMENT [Dkt. #14]

THIS MATTER is before the Court on Defendant CREDIT INTERNATIONAL CORPORATION (CIC)'s Motion for Summary Judgment [Dkt. # 14].

Plaintiffs claim that CIC and its attorney, Defendant Yonek, violated the Fair Debt Collection Practices Act (FDCPA) when they attempted to collect a debt for a dishonored \$65.01 check, without providing to them the required and proper notices, including notice of dishonor. *See*, for example, Complaint [Dkt. #1] at paragraphs 16-20. Plaintiffs specifically argue that the CIC's conduct violated 15 U.S.C. § 1692g(a). They also claim that the interest, treble damages, fees, and costs CIC sought to impose violated the FDCPA. (§1692 (f)).

Defendant CIC's Motion is based on the apparently undisputed fact that there was already a state Court action involving this check and these claims, brought by CIC to collect the debt against the Plaintiffs. [See Dkt. #14 at Ex. 1]. In response to that collection action, plaintiffs sought a copy of the dishonored check, suggested that it might be forged, and denied that they had previously received a copy. [Dkt. #14 at Ex. 3] They apparently did not otherwise defend the state court collection action, and CIC sought Summary Judgment. Plaintiffs did not

1 file a response, and a judgment was entered against them in the amount of \$665.66. [Dkt. #14.
2 Ex. 7].

3 A week later, Plaintiffs filed this action. They apparently did not appeal the underlying
4 judgment. Defendant CIC seeks summary judgment, arguing that Plaintiff's claims are barred by
5 the *Rooker Feldman* and/or res judicata doctrines.

6 Plaintiffs respond by arguing that *Rooker Feldman* does not apply where the Plaintiff is
7 not seeking to challenge an underlying state court decision. They argue that it does not apply
8 where the federal case "remains" after the state court action, and would have been the same even
9 absent the state court action. Plaintiffs claim that *Rooker Feldman* does not bar their claim,
10 because it arises from the collection procedures used by CIC, and does not dispute the validity of
11 the underlying debt or the resulting judgment. They argue they are not attempting to "appeal" or
12 otherwise undo the state court judgment against them.
13

14 Plaintiffs also argue that res judicata does not apply. They argue that the claims are not
15 the same, and the two actions do not depend on each other.
16

17 The Court can resolve this Motion on the basis of the doctrine of res judicata, and for that
18 reason will not address the *Rooker Feldman* doctrine's application. The doctrines are related,
19 and as both parties seem to acknowledge, even though *Rooker-Feldman* may not be applicable, a
20 myriad of doctrines, including res judicata, [can nevertheless] bar the suit. (Citing *Bolden v. City*
21 *of Topeka, Kan.*, 441 F.3rd 1129 (10th Cir. 2006))
22

23 The doctrine of res judicata (also known as claim preclusion) bars litigation where a prior
24 judgment concerns the same "(1) subject matter; (2) cause of action; (3) persons and parties; and
25 (4) the quality of the persons for or against whom the claim is made." *Seattle-First Nat'l Bank v.*
26 *Kawachi*, 91 Wn.2d 223, 225-26, 588 P.2d 725 (1978). Res judicata "is intended to prevent
27 piecemeal litigation and ensure the finality of judgments." *Landry v. Luscher*, 95 Wn. App. 779,
28

1 783, 976 P.2d 1274 (1999). Res judicata applies to matters actually litigated as well as those that
2 “could have been raised, and in the exercise of reasonable diligence *should have been raised*, in
3 the prior proceeding.” *Kelly-Hansen v. Kelly-Hansen*, 87 Wn.App. 320, 328-329, 941 P.2d 1108
4 (1997) (emphasis added).

5 The Plaintiffs recognize that four factors are considered when determining whether
6 successive lawsuits involve the same “cause of action”: (1) whether rights or interests established
7 in the prior judgment would be destroyed or impaired by the prosecution of the second action;
8 (2) whether substantially the same evidence is presented in the two actions; (3) whether the two
9 actions involve infringement of the same right; and (4) whether the two actions arise out of the
10 same transactional nucleus of facts. *Littlejohn v. U.S.*, 321 F.3d 915 (9th Cir. 2003), cert. denied,
11 540 U.S. 985 (2003).
12

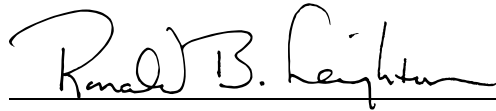
13 The crux of this case is the first of these factors. Plaintiffs argue that this action will have
14 no effect on the rights established in the state court action. Defendant argues, correctly,
15 however, that at least two of the “rights” established in the state court action are under attack in
16 this case: the fact that the Plaintiffs were provided notice of dishonor of their check, and the
17 propriety of the interest, fees, costs, and damages awarded by the state court. Indeed, it is not
18 clear what else the Plaintiffs claim violated the FDCPA beyond these items.
19

20 While it may be true that the FDCPA counterclaim was not compulsory, it is also true
21 that Plaintiffs cannot prevail on it without overturning the state court’s decisions on these issues.
22 The claims are therefore the same cause of action for purposes of res judicata. The remaining
23 elements are clearly present.
24
25
26
27
28

1 For this reason, the Plaintiffs' claims are barred under res judicata, and the Defendants'
2 Motion for Summary Judgment is GRANTED. Plaintiffs' claims against Defendant CIC are
3 dismissed with prejudice.

4 **IT IS SO ORDERED.**

5
6 Dated this 28th day of February, 2010.

7
8 
9

10 RONALD B. LEIGHTON
11 UNITED STATES DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28